

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

F.C. BLOXOM COMPANY, INC., a
Washington corporation,

Plaintiff,

V.

EMERALD CITY PRE-PACK, INC., a Washington corporation; FREDERICK A. HAMILTON, a/k/a FREDERICK A. GUEVERA, an individual; JAMES D. HAMILTON, an individual; IMELDA R. HAMILTON, an individual; and the marital community of JAMES D. HAMILTON AND IMELDA R. HAMILTON,

Defendants.

CASE NO. C09-5307BHS

**ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

This matter comes before the Court on Plaintiffs' Motion for a Preliminary Injunction (Dkt. 7). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby grants Plaintiff's motion for the reason stated herein.

On May 26, 2009, Plaintiff F.C. Bloxom filed a complaint against Defendants Emerald City Pre-Pack, Inc.; Frederick A. Hamilton, a/k/a Frederick A. Guevera; James D. Hamilton; and Imelda R. Hamilton. Dkt. 1. Plaintiff also filed a Motion for a Temporary Restraining Order. Dkt. 2. On May 27, 2009, the Court granted Plaintiff's

1 motion and issued a Temporary Restraining Order. Dkt. 5. The Court has twice extended
2 the restraining order and it expires on June 29, 2009. Dkts. 9 and 11.

3 On June 2, 2009, Plaintiff filed a Motion for Preliminary Injunction. Dkt. 7.
4 Defendants failed to respond.

5 On June 16, 2009, Plaintiff filed a Notice of Filing of Bankruptcy by Defendant
6 Emerald City Pre-Pack, Inc. Dkt. 13. The Court has stayed this action as to that
7 Defendant. Dkts. 14 and 15.

8 On June 29, 2009, the Court held a hearing on Plaintiff's Motion for a Preliminary
9 Injunction. Dkt. 21. Defendants did not appear. Plaintiff's counsel informed the Court
10 that it has not given notice to Defendant Frederick A. Hamilton.

11 In order for Plaintiff to obtain injunctive relief, the Court must find that: "(1) the
12 moving party will suffer irreparable injury if the relief is denied, (2) the moving party will
13 probably prevail on the merits, (3) the balance of potential harm favors the moving party,
14 and (4) the public interest favors granting relief." *Cassim v. Bowen*, 824 F.2d 791, 795
15 (9th Cir. 1987).

16 In this case, Plaintiff has met its burden on all four elements of the test for
17 injunctive relief. Therefore, the Court grants Plaintiff's motion.

18 It is hereby **ORDERED** that:

19 1. Defendants James D. Hamilton and Imelda R. Hamilton are hereby
20 enjoined and restrained from dissipating, paying, transferring, assigning, selling and/or
21 disbursing any and all assets covered by or subject to the trust provisions of the
22 Perishable Agricultural Commodities Act ("PACA"), 7 U.S.C. §499e(c), without
23 agreement of the Plaintiff or until further order of this Court.

24 2. Defendants James D. Hamilton and Imelda R. Hamilton shall provide to
25 Plaintiff, on or before July 6, 2009, a statement identifying each bank account, whether
26 checking, savings, or other, in which any and all funds which may be the product of the

1 sale of perishable agricultural commodities, are on deposit, or have been on deposit
2 during the 30 days prior to the entry of this order.

3. Defendants James D. Hamilton and Imelda R. Hamilton shall provide to
4 Plaintiff, on or before July 6, 2009, a list of the complete names and addresses of all
5 known or potential PACA trust creditors so that the disposition of PACA trust assets may
6 be adequately assessed.

7. As Defendants already have possession of no less than \$41,923.95 in
8 amounts owed to Plaintiff, it is determined that no bond shall be required.

9 DATED this 29th day of June, 2009.

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12 BENJAMIN H. SETTLE
13 United States District Judge
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